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In re Application of
Masatomi et al.
Application No.: 10/562,656
PCT No.: PCT/JP04/09403
Int. Filing Date: 25 June 2004
Priority Date: 27 June 2003
Attorney Docket No.: 71,051-026
For: Coating Composition

DECISION

This is in response to the declaration of the inventors filed on 24 November 2006.

BACKGROUND

This international application was filed on 25 June 2004, claimed an earlier priority date of 27 June 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 06 January 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 27 December 2005. Applicant filed *inter alia* the basic national fee on 27 December 2005.

On 07 April 2006, a Notification Of Missing Requirements... (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

On 01 May 2006, applicants filed a response, including a declaration and the \$130.00 surcharge.

On 09 November 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicant, objecting to the declaration filed on 01 May 2006 in view of "MPEP 201.03(II)(B)."

On 09 April 2007, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) to be 24 November 2006.

DISCUSSION

Inspection of the declaration documents filed on 24 November 2006 reveals that one document nominates and is executed by Toru Masatomi and Motoshi Sasaki, while the other declaration document nominates and is executed by Hideki Kobayashi. Neither document nominates the entire inventive entity shown on the published international application. Applicants' attention is drawn to MPEP 201.03, which explains in part that

While each inventor need not execute the same declaration, each oath or declaration executed must contain a complete listing of all inventors so as to

clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

Since neither of the declaration documents filed on 24 November 2006 "contain[s] a complete listing of all inventors," they are not acceptable for purposes of compliance with 37 CFR 1.497(a) and (b). Therefore, the Notice of Acceptance mailed on 09 April 2007 was defective, and it is hereby **VACATED**.

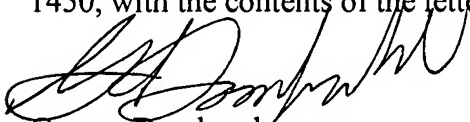
Inspection of the declaration filed on 01 May 2006 reveals that inventors Masatomi and Sasaki are nominated on one page "3 of 3," while inventor Kobayashi is nominated on a separate page "3 of 3." As such, it is not clear from inspection of the declaration itself whether each inventor executed a complete declaration document nominating the entire inventive entity.

DECISION

The declarations filed on 01 May 2006 and 24 November 2006 are **NOT ACCEPTED**, without prejudice.

Since the defective declaration filed on 24 November 2006 was in response to a Notification of Defective Response (Form PCT/DO/EO/916) which set a non-extendable time limit in which to perfect the declaration requirement, and since said time period has now expired, this application stands **ABANDONED** with respect to the national stage in the United States. Applicants may wish to consider filing a petition under 37 CFR 1.137(b) in the event that revival is sought.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.



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